

1 A bill to be entitled
 2 An act relating to arboriculture; creating ch. 598, F.S.;
 3 providing a short title; providing a purpose statement;
 4 providing definitions; providing exceptions; providing
 5 powers and duties of the Department of Agriculture and
 6 Consumer Services; providing rulemaking authority;
 7 establishing a maximum annual fee for licensure; providing
 8 for deposit and use of fee proceeds; establishing
 9 licensure procedures and requirements to practice
 10 arboriculture and provide arboriculture services;
 11 providing for issuance of a license; providing grounds for
 12 denial of a license or refusal to renew a license;
 13 providing for license suspension or revocation; providing
 14 for license renewal; providing for reactivation of a
 15 license under certain conditions; providing for issuance
 16 of a duplicate license under certain circumstances;
 17 requiring a roster of licensed arborists; amending s.
 18 604.15, F.S.; revising a definition to make tropical
 19 foliage exempt from regulation under provisions relating
 20 to dealers in agricultural products; providing an
 21 appropriation; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

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 25 Section 1. Chapter 598, Florida Statutes, consisting of
 26 sections 598.001, 598.002, 598.003, 598.004, 598.005, 598.006,
 27 598.007, 598.008, 598.009, and 598.011, is created to read:

28 CHAPTER 598

ARBORICULTURE

598.001 Short title.--This chapter may be cited as the "Florida Arborist Licensing Law."

598.002 Purpose.--It is declared to be the public policy of the state that, in order to safeguard life, health, and property; the mitigation of property insurance; the cleanup of damage from hurricanes, tropical storms, and other severe storm events; and the public well-being of its citizens, any person practicing or offering to practice arboriculture in this state as a licensed arborist shall meet the requirements of this chapter.

598.003 Definitions.--As used in this chapter:

(1) "Arboriculture" or "arboriculture services" means:

(a) Any tree service, including, but not limited to, a written or oral report, a recommendation, an opinion, or a consultation done for compensation relating to the improvement of the condition of shade, ornamental, palm, or fruit trees by fertilizing, pruning, trimming, bracing, or other methods of improving, diagnosing, or protecting such trees from tree pests, excluding activities regulated under chapter 482 and the activities of a nursery as defined in s. 581.011(20) and (22), or diagnosing or protecting such trees from tree diseases and abiotic agents, or curing or repairing any damage to such trees, including, but not limited to, pruning, removal, preservation, repair, cabling and bracing, lightning protection, root pruning, root excavation, tree assessments, tree maintenance and care, trimming, cutting, sawing, or removal of trees that have been damaged to such an extent as to cause or threaten injury to life

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57 | or property.

58 | (b) A service performed in connection with post-storm
59 | cleanup of damage from hurricanes, tropical storms, and other
60 | storm events that involves substantial work hours. A post-storm
61 | cleanup service includes, but is not limited to, storm damage
62 | resulting in downed, damaged, or uprooted trees, or parts of
63 | trees, of substantial size and weight in excess of 50 pounds
64 | that threaten the structural integrity of residential or
65 | commercial structures; involve any type of power lines; impede
66 | traffic on streets, driveways, and other vehicular access roads;
67 | require extensive use of compression or chain saws; and involve
68 | any related skilled service.

69 | (c) A landscape architect licensed under part II of
70 | chapter 481 is authorized to practice arboriculture; however, as
71 | provided in s. 598.006(4), only a person licensed under this
72 | chapter may hold herself or himself out as a state-licensed
73 | arborist.

74 | (d) To prevent injury to life or property after a
75 | disaster, state emergency response team members designated under
76 | the state comprehensive emergency management plan pursuant to
77 | chapter 252 are authorized to provide and conduct charitable
78 | arboriculture services and to train volunteers to provide such
79 | services; however, as provided in s. 598.006(4), only a person
80 | licensed under this chapter may hold herself or himself out as a
81 | state-licensed arborist.

82 | (2) "Arborist of record" means a Florida-licensed arborist
83 | in good standing who is employed by or contracting with a firm,
84 | corporation, partnership, employer, or person; who supervises

85 employees providing arboriculture services; and who issues
 86 authorization cards to persons performing services under her or
 87 his supervision.

88 (3) "Department" means the Department of Agriculture and
 89 Consumer Services.

90 (4) "Landscape tree maintenance" means maintenance
 91 performed when standing on the ground or when performed on trees
 92 less than 4 inches in diameter at breast height as referenced in
 93 the Guide to Plant Appraisal.

94 (5) "Licensed arborist" means a person who has fulfilled
 95 the International Society of Arboriculture requirements for
 96 arborist certification or for certification as a Board Certified
 97 Master Arborist, whose certification is current, and who meets
 98 the requirements of s. 598.006.

99 (6) "Person" means a person as defined in s. 1.01(3).

100 (7) "Practice of arboriculture" means the performance of,
 101 or offer to perform, an arboriculture service, including, but
 102 not limited to, a written or oral report, consultation,
 103 investigation, evaluation, or planning, relating to
 104 arboriculture, excluding landscape tree maintenance as defined
 105 in this section and as otherwise excluded by this chapter. A
 106 person shall be construed to be engaged in the practice of
 107 arboriculture if she or he:

108 (a) By verbal claim, sign, advertisement, letterhead,
 109 card, or any other means represents herself or himself to be an
 110 arborist;

111 (b) Through the use of some title implies that she or he
 112 is an arborist licensed under this chapter; or

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113 (c) Holds herself or himself out as able to perform or
114 does perform any arboriculture services or work recognized as an
115 arborist.

116 598.004 Powers and duties of the Department of Agriculture
117 and Consumer Services; rulemaking.--The department shall have
118 all powers and duties necessary to implement the provisions of
119 this chapter, including, but not limited to, the authority to
120 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
121 the following:

122 (1) Organizational and operational guidance regarding the
123 practice of arboriculture, arborists of record, and the
124 requirements of the law regarding licensed arborists.

125 (2) Licensure process, including, but not limited to,
126 requirements and procedures for licensure; insurance
127 requirements and standards of the International Society of
128 Arboriculture for licensed arborists; authorization cards;
129 annual license renewal; language relating to licensure that may
130 be used by licensed arborists for public information; duplicate
131 licenses; lost, destroyed, or mutilated licenses; and inactive
132 and reactivated licenses.

133 (3) Setting of fees for licensure and annual renewal and
134 other license fees as provided in s. 598.005.

135 (4) Provision of a roster of licensed arborists.

136 598.005 Fees.--

137 (1) The department shall by rule set fees as provided in
138 this section. The amount of the fees shall not exceed the cost
139 of the implementing, reviewing, or administrative processing of
140 the particular activity or process. Licensure fees are

141 nonrefundable and shall not exceed \$300 annually.

142 (2) Fees collected under this chapter shall be deposited
 143 into the Incidental Trust Fund of the Division of Forestry of
 144 the department and shall be used to defray expenses in the
 145 administration of this chapter.

146 598.006 Licensure procedures and requirements; issuance of
 147 licenses.--

148 (1) Each applicant for licensure shall:

149 (a) Submit to the department an application for licensure
 150 that has been reviewed by the Florida Chapter, Board of
 151 Directors, International Society of Arboriculture, Inc., for
 152 completeness and compliance with this section, together with the
 153 nonrefundable fee set by the department under s. 598.005;

154 (b) Furnish proof that she or he is at least 18 years of
 155 age;

156 (c) Disclose any information related to the provisions of
 157 subsection (2);

158 (d) Submit evidence of current certification by the
 159 International Society of Arboriculture as a Certified Arborist
 160 or as a Board Certified Master Arborist;

161 (e) Provide proof of liability, required workers'
 162 compensation, and errors and omissions insurance; however, an
 163 applicant employed by a statutorily recognized governmental
 164 entity shall not be required to carry errors and omissions
 165 insurance or liability insurance if the entity is self-insured.
 166 Within 30 days after the termination of the person's employment
 167 with the governmental entity, the person shall fully comply with
 168 the requirements of this subsection; and

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169 (f) Submit a signed statement that the applicant will
170 comply with arboriculture industry standards, including, but not
171 limited to, the national standards for tree operations and
172 safety approved by the American National Standards Institute,
173 the standards of the International Society of Arboriculture, and
174 best management practices adopted by rule by the department.

175 (2) The department may deny or refuse to renew the license
176 of any applicant or state-licensed arborist upon a determination
177 that the applicant or state-licensed arborist:

178 (a) Has failed to meet the requirements for licensure as
179 provided in this chapter;

180 (b) Has been convicted of a crime involving fraud,
181 dishonest dealing, or any other act of moral turpitude;

182 (c) Has not satisfied a civil fine or penalty arising out
183 of any administrative or enforcement action brought by any
184 governmental agency or private person based upon conduct
185 involving fraud, dishonest dealing, or any violation of this
186 act;

187 (d) Has pending against her or him any criminal,
188 administrative, or enforcement proceedings in any jurisdiction,
189 based upon conduct involving fraud, dishonest dealing, or any
190 other act of moral turpitude; or

191 (e) Has had a judgment entered against her or him in any
192 action brought by the department or the Department of Legal
193 Affairs pursuant to ss. 501.201-501.213 or this chapter.

194 (3) Any person licensed under this section who fails to
195 maintain compliance with subsection (1) shall have her or his
196 license suspended or revoked by the department.

197 (4) A person may not hold herself or himself out as a
 198 licensed Florida arborist unless the person has been issued a
 199 license pursuant to this chapter.

200 (5) All final arboriculture papers or documents involving
 201 the practice of the profession of arboriculture under the
 202 supervision of a Florida-licensed arborist of record that have
 203 been prepared or approved for use by a firm, corporation,
 204 partnership, or person, for delivery to any person for public
 205 record within the state, shall be dated and bear the signature
 206 and seal of the Florida-licensed arborist of record who
 207 prepared, supervised, or approved the documents and who was
 208 responsible for the supervision of persons performing
 209 arboricultural services.

210 598.007 Renewal of licenses; notice of address of primary
 211 place of business.--

212 (1) The department shall renew a license upon receipt of
 213 satisfactory evidence that the applicant's International Society
 214 of Arboriculture certification is current and that the applicant
 215 is otherwise in compliance with this chapter and department
 216 rules.

217 (2) The licensed arborist must have on file with the
 218 department the address of her or his primary place of practice.
 219 Within 30 days after changing the address of her or his primary
 220 place of practice, the licensed arborist must notify the
 221 department of the address of the new primary place of practice.

222 598.008 Inactive licenses; reactivated licenses; suspended
 223 or revoked licenses.--A licensed arborist whose license has
 224 become inactive, suspended, or revoked shall have her or his

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225 license reactivated only upon written request to the department
 226 and approval by the department to reactivate the license.

227 598.009 Lost, destroyed, stolen, or mutilated licenses.--A
 228 duplicate license for a licensed arborist may be issued to
 229 replace a license that has been lost, destroyed, stolen, or
 230 mutilated, subject to rules of the department. Licenses issued
 231 under this section shall be marked with the word "DUPLICATE."

232 598.011 Roster of licensed arborists.--The department
 233 shall maintain a roster showing the names and places of business
 234 of all licensed arborists in the state, based on requests for
 235 licensure.

236 Section 2. Subsection (1) of section 604.15, Florida
 237 Statutes, is amended to read:

238 604.15 Dealers in agricultural products; definitions.--For
 239 the purpose of ss. 604.15-604.34, the following words and terms,
 240 when used, shall be construed to mean:

241 (1) "Agricultural products" means the natural products of
 242 the farm, nursery, grove, orchard, vineyard, garden, and apiary
 243 (raw or manufactured); sod; ~~tropical foliage~~; horticulture; hay;
 244 livestock; milk and milk products; poultry and poultry products;
 245 the fruit of the saw palmetto (meaning the fruit of the Serenoa
 246 repens); limes (meaning the fruit Citrus aurantifolia, variety
 247 Persian, Tahiti, Bearss, or Florida Key limes); and any other
 248 nonexempt agricultural products produced in the state, except
 249 tobacco, sugarcane, tropical foliage, timber and timber
 250 byproducts, forest products as defined in s. 591.17, and citrus
 251 other than limes.

252 Section 3. There is hereby appropriated to the Department

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253 | of Agriculture and Consumer Services one position and associated
254 | rate and expenses of \$72,280 from the Incidental Trust Fund in
255 | order to carry out the provisions of section 1 of this act.

256 | Section 4. This act shall take effect July 1, 2009.